

AMENDED IN SENATE APRIL 14, 1998

SENATE BILL

No. 2085

Introduced by Senator Burton

February 20, 1998

An act to amend Sections 22110.1, 22122.5, 22143, 22155.5, 22162, 22202, 22307, 22311, 22402, 26000, 26112, 26113, 26115, 26127, 26128, 26129, 26133, 26134, 26200, 26201, 26202, 26204, 26206, 26207.5, 26209, 26301, 26302, 26400, 26401, 26504, 26507, 26807, 26906, 27411, and 28100 of, *to add Sections 22001.5, 22403, and 26000.6 to, and to repeal Sections 26111 and 26207 of,* the Education Code, relating to the State Teachers' Retirement System, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 2085, as amended, Burton. State Teachers' Retirement System Cash Balance Plan.

(1) The *State Teachers' Retirement Law prescribes retirement benefits for eligible teachers in the public schools and the State Teachers' Retirement System Cash Balance Plan provides retirement benefits for other persons employed in instructional programs for less than 50% of the full-time equivalent by school employers who have elected to provide those benefits for those employees. The separate retirement programs and their separate retirement funds are both administered by the Teachers' Retirement Board.*

This bill would merge those programs, would provide that both are included in the State Teachers' Retirement Law, and that they would both be known and cited as the State Teachers' Retirement Plan. The bill would provide that a

prior loan from the Teachers' Retirement Fund to the Cash Balance Plan would be absorbed by the Teachers' Retirement Fund. The bill would delete the Cash Balance Fund and its various accounts, would require contributions, earnings, and any other amounts provided under that plan to be deposited in the Teachers' Retirement Fund and would provide that the Teachers' Retirement Fund is continuously appropriated for the payment of benefits under the Cash Balance Benefit Program. The bill would delete the Cash Balance Benefit Plan Expense Account and would authorize all administrative costs of the Cash Balance Benefit Program from the Teachers' Retirement Fund. The bill would make other related changes.

(2) Existing law authorizes assessment of penalties against employers for late reports or unacceptable forms of not less than \$500.

This bill would delete that limitation.

~~(2)~~

(3) Existing law provides that the employee contribution rate to the State Teacher's Retirement System Cash Balance Plan shall not exceed the employer contribution rate.

This bill would provide that the employee rate may exceed the employer rate but that the employer contribution vote may not be less than 4%.

~~(3)~~

(4) Existing law provides that nonparticipant spouses who are awarded separate accounts under the plan may select alternative annuities.

This bill would revise those alternatives.

~~(4)~~

(5) The bill would also make technical, nonsubstantive changes to various provisions of the State Teacher's Retirement System Cash Balance Plan.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22001.5 is added to the
2 Education Code, to read:

1 22001.5. The Legislature hereby finds and declares
2 that on July 1, 1996, the State Teachers' Retirement
3 System Cash Balance Plan was created and established to
4 provide a retirement plan for persons employed to
5 perform creditable service for less than 50 percent of the
6 full-time equivalent for the position. The persons eligible
7 for the Cash Balance Plan were excluded from mandatory
8 membership in the State Teachers' Retirement System
9 Defined Benefit Plan. Both plans are administered by the
10 Teachers' Retirement Board. Prior to the creation and
11 establishment of the Cash Balance Plan, the State
12 Teachers' Retirement System Defined Benefit Plan had
13 been identified simply as the State Teachers' Retirement
14 System. As a result, the system was identified as both the
15 administrative body and the retirement plan. The State
16 Teachers' Retirement Law was amended to identify the
17 retirement plan as the State Teachers' Retirement
18 Defined Benefit Plan in order to distinguish that plan
19 from the Cash Balance Plan. Because both plans were
20 intended to provide for the retirement of teachers and
21 other persons employed in connection with public
22 schools of this state and schools supported by this state, a
23 merger of these two plans is now hereby made for the
24 purpose of establishing a single retirement plan that shall
25 be known and may be cited as the State Teachers'
26 Retirement Plan consisting of the different benefit
27 programs set forth in this part and Part 14 (commencing
28 with Section 26000). This plan shall be administered by
29 the Teachers' Retirement Board as set forth in this part
30 and Part 14 (commencing with Section 26000). This part,
31 together with Part 14 (commencing with Section 26000)
32 shall be known and may be cited as the Teachers'
33 Retirement Law.

34 SEC. 2. Section 22110.1 of the Education Code is
35 amended to read:

36 22110.1. "Cash Balance ~~Plan~~ Benefit Program" means
37 the benefit program of the State Teachers' Retirement
38 ~~System—Cash—Balance~~ Plan as set forth in Part 14
39 (commencing with Section 26000).

1 SEC. 3. Section 22122.5 of the Education Code is
2 amended to read:

3 22122.5. “Defined Benefit ~~Plan~~ Program” means the
4 Defined Benefit Program provided in the State Teachers’
5 Retirement System ~~Defined Benefit~~ Plan as set forth in
6 this part.

7 SEC. 4. Section 22143 of the Education Code is
8 amended to read:

9 22143. “Investment manager” and “investment
10 adviser” mean any person, firm, or custodian referred to
11 in Section 22359, either appointed by or under contract
12 with the board to engage in investment transactions or to
13 manage or advise in the management of the assets of the
14 Teachers’ Retirement Fund *with respect to the Defined*
15 *Benefit Program under this part* and the Cash Balance
16 ~~Fund~~ *Benefit Program* under Part 14 (commencing with
17 Section 26000).

18 SEC. 5. Section 22155.5 of the Education Code is
19 amended to read:

20 22155.5. “Plan” means the State Teachers’
21 Retirement System ~~Defined Benefit~~ Plan ~~as set forth in~~
22 ~~this part~~.

23 SEC. 6. Section 22162 of the Education Code is
24 amended to read:

25 22162. “Regular interest” is interest that is
26 compounded annually based upon the annual equivalent
27 of the average rate yielded on commitments *with respect*
28 *to the Defined Benefit Program* during the prior year for
29 maturities of more than one year in length of
30 fixed-income senior securities. For purposes of this
31 section, “senior securities” means all investments except
32 common stock and preferred stock investments and real
33 estate ownership *with respect to the Defined Benefit*
34 *Program*.

35 SEC. 7. Section 22202 of the Education Code is
36 amended to read:

37 22202. The board has exclusive control of the
38 administration of the funds. No transfers or
39 disbursements of any amount from the funds shall be
40 made except upon the authorization of the board for the

1 purpose of carrying into effect the provisions of this part
2 *and Part 14 (commencing with Section 26000).*

3 *SEC. 8. Section 22307 of the Education Code is*
4 *amended to read:*

5 22307. (a) The board may authorize the transfer and
6 disbursement of funds from the retirement fund for the
7 purpose of carrying into effect this part *and Part 14*
8 *(commencing with Section 26000)* upon the signature of
9 either or both of its chairperson and vice chairperson or
10 the chief executive officer or any employee of the system
11 designated by the chief executive officer.

12 (b) Notwithstanding Section 13340 of the
13 Government Code, the board may disburse funds for the
14 payment of benefits to members and beneficiaries *of the*
15 *Defined Benefit Program as well as to participants and*
16 *beneficiaries of the Cash Balance Benefit Program*, for
17 the payment of refunds and for investment transactions
18 and these funds shall not be required to be appropriated
19 through the annual Budget Act. Funds for the payment
20 of administrative expenses are not continuously
21 appropriated, and shall be appropriated by the annual
22 Budget Act.

23 *SEC. 9. Section 22311 of the Education Code is*
24 *amended to read:*

25 22311. (a) The board shall keep in convenient form
26 any data necessary for the actuarial valuation of the plan.

27 (b) The board shall make an actuarial investigation
28 into the mortality, service, and other experience of
29 members and beneficiaries of the ~~plan and shall make~~
30 *Defined Benefit Program as well as an actuarial review*
31 *of the goals regarding the sufficiency of the Gain and Loss*
32 *Reserve with respect to the Cash Balance Benefit*
33 *Program. This investigation and review shall include an*
34 *actuarial valuation of the assets and liabilities of the plan,*
35 *and shall be performed at least once every six years. The*
36 *actuary shall perform the actuarial valuation using*
37 *actuarial assumptions adopted by the board and that are,*
38 *in the aggregate, reasonably related to the past*
39 *experience of the plan and the best estimate by the*
40 *actuary of the future experience of the plan. The report*

1 of the actuary of the results of the actuarial valuation shall
2 identify and include the components of normal cost and
3 adequate information to determine the effects of changes
4 in actuarial assumptions. Copies of the report on the
5 actuarial valuation shall be transmitted to the Governor
6 and to the Legislature. Upon the basis of any or all of the
7 actuarial investigation and valuation, the board shall
8 adopt for the plan any rates of return on investments,
9 rates of contribution to the retirement fund, mortality,
10 service, and other tables it deems necessary.

11 *SEC. 10. Section 22402 of the Education Code is*
12 *amended to read:*

13 22402. Earned interest not credited to accounts
14 maintained pursuant to either this part or Part 14
15 (commencing with Section 26000) and other income shall
16 be ~~used~~ allocated to provide ~~the~~ benefits under this part
17 and additions to the Gain and Loss Reserve established
18 with respect to the Cash Balance Benefit Program set
19 forth in Part 14 (commencing with Section 26000).

20 *SEC. 11. Section 22403 is added to the Education*
21 *Code, to read:*

22 22403. The Legislature hereby finds and declares that
23 pursuant to the authorizing legislation creating and
24 establishing the Cash Balance Plan, the board transferred
25 one million dollars (\$1,000,000) in the form of a loan from
26 the retirement fund holding assets at that time
27 exclusively for the State Teachers' Retirement System
28 Defined Benefit Plan to the newly created Cash Balance
29 Plan. That loan represented an asset receivable to the
30 State Teachers' Retirement System Defined Benefit Plan
31 and a liability obligation to the State Teachers'
32 Retirement System Cash Balance Plan. As a result of the
33 merger of these two plans authorized under this part, the
34 assets held in the retirement fund shall hereby reflect the
35 combined assets of the State Teachers' Retirement Plan.
36 The creation and establishment of this plan as a result of
37 the merger requires the plan to absorb the loan.

38 *SEC. 12. Section 26000 of the Education Code is*
39 *amended to read:*

1 26000. The Legislature hereby finds and declares that
 2 the State Teachers' Retirement System Cash Balance
 3 Plan ~~is hereby~~ was created and established on July 1, 1996,
 4 to provide a retirement plan for persons employed to
 5 perform creditable service for less than 50 percent of the
 6 full-time equivalent for the position. ~~This part shall be~~
 7 ~~known and may be cited as the Cash Balance Plan.~~ The
 8 persons eligible for the Cash Balance Plan were excluded
 9 from mandatory membership in the State Teachers'
 10 Retirement System Defined Benefit Plan. Both plans are
 11 administered by the Teachers' Retirement Board.
 12 Because both plans were intended to provide for the
 13 retirement of teachers and other persons employed in
 14 connection with the public schools of this state and
 15 schools supported by this state, a merger of these two
 16 plans is now hereby made for the purpose of establishing
 17 a single retirement plan that shall be known and may be
 18 cited as the State Teachers' Retirement Plan consisting of
 19 the different benefit programs set forth in this part and
 20 Part 13 (commencing with Section 22000). The plan shall
 21 be administered by the Teachers' Retirement Board as
 22 set forth in this part and Part 13 (commencing with
 23 Section 22000). As a result of this merger, a Cash Balance
 24 Benefit Program will be provided under the State
 25 Teachers' Retirement Plan and the program set forth in
 26 this part.

27 The governing board of a school district, community
 28 college district, or county office of education may, by
 29 formal action, elect to provide the benefits of the Cash
 30 Balance Benefit Program under this part for their
 31 employees.

32 SEC. 13. Section 26000.6 is added to the Education
 33 Code, to read:

34 26000.6. (a) An election by any employer to provide
 35 the benefits of the Cash Balance Plan for their employees
 36 prior to the merger described in Section 26000 shall be
 37 deemed to constitute an election to provide the Cash
 38 Balance Benefit Program under the State Teachers'
 39 Retirement Plan.

1 (b) Participation in the Cash Balance Plan by any
2 participant prior to the merger described in Section 26000
3 shall be deemed to constitute participation in the Cash
4 Balance Benefit Program under the State Teachers'
5 Retirement Plan.

6 (c) Any beneficiary under the Cash Balance Plan prior
7 to the merger described in Section 26000 shall be deemed
8 to be a beneficiary under the Cash Balance Benefit
9 Program under the State Teachers' Retirement Plan.

10 SEC. 14. Section 26111 of the Education Code is
11 repealed.

12 ~~26111. "Cash Balance Plan Expense Account" means~~
13 ~~the account established by the board within the State~~
14 ~~Teachers' Retirement System Cash Balance Fund for the~~
15 ~~payment of costs of the board and system for~~
16 ~~administration of the plan.~~

17 SEC. 15. Section 26112 of the Education Code is
18 amended to read:

19 26112. "Cash Balance ~~Plan~~ Benefit Program" means
20 the benefit program set forth in this part of the State
21 Teachers' Retirement System ~~Cash Balance~~ Plan.

22 SEC. 16. Section 26113 of the Education Code is
23 amended to read:

24 26113. (a) "Creditable Service" means any of the
25 following activities performed for an employer in a
26 position requiring a credential, certificate, or permit
27 pursuant to this code or under the appropriate minimum
28 standards adopted by the Board of Governors of the
29 California Community Colleges or under the provisions
30 of an approved charter for the operation of a charter
31 school for which the employer is eligible to receive state
32 apportionment or pursuant to a contract between a
33 community college district and the United States
34 Department of Defense to provide vocational training:

35 (1) The work of teachers, instructors, district interns
36 and academic employees employed in the instructional
37 program for pupils, including special programs such as
38 adult education, regional occupational programs, child
39 care centers, and prekindergarten programs pursuant to
40 Section 22161.

(2) Education or vocational counseling, guidance, and placement services.

(3) The work of directors, coordinators, and assistant administrators who plan courses of study to be used in California public schools, or research connected with the evaluation or efficiency of the instructional program.

(4) The selection, collection, preparation, classification, demonstration, or evaluation of instructional materials of any course of study for use in the development of the instructional program in California public schools, or other services related to school curriculum.

(5) The examination, selection, in-service training, or assignment of teachers, principals or other similar personnel involved in the instructional program.

(6) School activities related to, and an outgrowth of, the instructional and guidance program of the school when performed in addition to other activities described in this section.

(7) The work of nurses, physicians, speech therapists, psychologists, audiometrists, audiologists, and other school health professionals.

(8) Services as a school librarian.

(9) The work of county and district superintendents and other employees who are responsible for the supervision of persons or administration of the duties described in this section.

(b) “Creditable service” also means the work of superintendents of California public schools.

(c) The board shall have final authority for determining creditable service to cover any activities not already specified.

~~SEC. 2.~~

SEC. 17. Section 26115 of the Education Code is amended to read:

26115. “Defined Benefit ~~Plan~~ Program” means the ~~State Teachers’ Retirement System~~ Defined Benefit Program of the State Teachers’ Retirement Plan as set forth in Part 13 (commencing with Section 22000).

1 *SEC. 18. Section 26127 of the Education Code is*
2 *amended to read:*

3 26127. “Full time equivalent” means the days or hours
4 of creditable service that a person who is employed on a
5 part-time basis would be required to perform in a school
6 year if he or she were employed full time, as defined by
7 Section 22138.5, in that position.

8 ~~SEC. 3.~~

9 *SEC. 19. Section 26128 of the Education Code is*
10 *amended to read:*

11 26128. “Fund” means the ~~Cash-Balance Teachers’~~
12 ~~Retirement Fund.~~

13 *SEC. 20. Section 26129 of the Education Code is*
14 *amended to read:*

15 26129. “Gain and Loss Reserve” means the reserve
16 account established by the board within the ~~Cash-Balance~~
17 ~~Fund fund with respect to the Cash Balance Benefit~~
18 ~~Program~~ to be drawn upon to the extent necessary to
19 credit interest to employee accounts and employer
20 accounts at the minimum interest rate during years in
21 which the *plan’s* investment earnings *with respect to the*
22 *Cash Balance Benefit Program* are not sufficient for that
23 purpose, and where necessary, to provide additions to the
24 Annuitant Reserve for monthly annuity payments.

25 *SEC. 21. Section 26133 of the Education Code is*
26 *amended to read:*

27 26133. “Pay period” means a payroll period specified
28 by the employer but not more than 30 calendar days.

29 *SEC. 22. Section 26134 of the Education Code is*
30 *amended to read:*

31 26134. “Plan” means the State Teachers’ Retirement
32 ~~System-Cash-Balance Plan.~~

33 ~~SEC. 4.~~

34 *SEC. 23. Section 26200 of the Education Code is*
35 *amended to read:*

36 26200. ~~There is in the State Treasury a special trust~~
37 ~~fund to be known as the Cash-Balance Fund. There shall~~
38 ~~be deposited in that fund the assets of the Cash-Balance~~
39 ~~Plan, consisting of employee Employee contributions,~~
40 employer contributions, investment earnings, and any

1 other amounts provided under this part *shall be*
2 *deposited into the Teachers' Retirement Fund.*
3 Disbursement of money from the fund shall be made
4 upon claims made pursuant to Section 26209 and duly
5 audited in the manner prescribed for the disbursement
6 of other public funds. Notwithstanding Section 13340 of
7 the Government Code, the ~~Cash Balance Teachers'~~
8 *Retirement Fund* is continuously appropriated for the
9 payment of benefits and investment transactions
10 pursuant to this part. Disbursements may be made to
11 return funds deposited in the ~~Cash Balance Fund~~ *fund* in
12 error ~~and to reimburse any funds transferred from the~~
13 ~~Teachers' Retirement Fund.~~

14 *SEC. 24. Section 26201 of the Education Code is*
15 *amended to read:*

16 26201. Investment earnings shall be collected by the
17 Treasurer, and together with any other moneys received
18 ~~for in connection with the Cash Balance Fund Benefit~~
19 *Program*, shall be immediately deposited to the credit of
20 the ~~Cash Balance Teachers' Retirement Fund~~ and
21 reported to the system.

22 *SEC. 25. Section 26202 of the Education Code is*
23 *amended to read:*

24 26202. (a) The board shall establish a Gain and Loss
25 Reserve within *the Teachers' Retirement Fund* for the
26 ~~Cash Balance Fund Benefit Program~~. The board has sole
27 authority to administer the Gain and Loss Reserve to be
28 drawn upon to the extent necessary to credit interest to
29 employee accounts and employer accounts at the
30 minimum interest rate during years in which the
31 investment earnings *of the plan with respect to the Cash*
32 *Balance Benefit Program* are not sufficient for that
33 purpose, and, where necessary, to provide additions to
34 the Annuitant Reserve for monthly annuity payments.

35 (b) The board shall establish and periodically review
36 goals regarding the sufficiency of the Gain and Loss
37 Reserve based on the recommendation of the actuary.

38 (c) In the event that the total amount of investment
39 earnings of the plan *with respect to the Cash Balance*
40 *Benefit Program* for any plan year exceeds the sum of the

1 total amount required to credit all employee and
2 employer accounts at the minimum interest rate for the
3 plan year plus the administrative costs of the plan with
4 respect to the Cash Balance Benefit Program for the plan
5 year, the board shall determine the amount, if any, that
6 is to be credited to the Gain and Loss Reserve for the plan
7 year. That determination shall be made not later than
8 December 31 of the year following the plan year. In
9 determining whether an amount is to be credited to the
10 Gain and Loss Reserve, the board shall consider the
11 sufficiency of the reserve in light of the goal established
12 for the sufficiency and the recommendations of the
13 actuary.

14 *SEC. 26. Section 26204 of the Education Code is*
15 *amended to read:*

16 26204. The board shall establish an Annuitant Reserve
17 within the ~~Cash Balance Teachers' Retirement Fund for~~
18 ~~the Cash Balance Benefit Program.~~ The board has sole
19 authority to administer the Annuitant Reserve for the
20 payment of annuities. The board may transfer the credits
21 from a participant's employee account and employer
22 account to the Annuitant Reserve upon election of an
23 annuity by the participant or beneficiary of the
24 participant.

25 *SEC. 27. Section 26206 of the Education Code is*
26 *amended to read:*

27 26206. ~~The board may establish and administer a Cash~~
28 ~~Balance Plan Expense Account within the Cash Balance~~
29 ~~Fund. The Cash Balance Plan Expense Account shall be~~
30 ~~funded first through assessment against the investment~~
31 ~~earnings of the plan. All administrative costs of the board~~
32 ~~and system for the plan with respect to the Cash Balance~~
33 ~~Benefit Program shall be paid from the Cash Balance Plan~~
34 ~~Expense Account Teachers' Retirement Fund.~~

35 *SEC. 28. Section 26207 of the Education Code is*
36 *repealed.*

37 26207. (a) ~~The board may authorize the transfer of~~
38 ~~funds of up to one million dollars (\$1,000,000) from the~~
39 ~~Teachers' Retirement Fund to the Cash Balance Plan~~

~~Expense Account to cover administrative costs incurred during the first year of operation of the plan.~~

~~(b) Any funds transferred pursuant to subdivision (a) shall be repaid from the investment earnings of the plan during years in which the total investment earnings for the plan year exceed the sum of the total amount required to credit all employee and employer accounts at the minimum interest rate plus administrative costs of the plan for the year.~~

~~(c) Investment earnings in excess of the sum of the total amount credited to all accounts under the minimum interest rate and administrative costs for the plan year shall first be applied to the repayment of funds transferred from the Teachers' Retirement Fund.~~

~~(d) The funds shall be repaid with interest at the regular interest rate as set forth in Part 13 (commencing with Section 22000).~~

~~(e) Except as set forth in this section, the board shall not authorize funds or assets of the Teachers' Retirement Fund to be pledged, loaned, transferred, furnished, provided, or otherwise encumbered to provide funding for the plan.~~

SEC. 29. Section 26207.5 of the Education Code is amended to read:

~~26207.5. Funding for the plan shall be provided only from the specific sources set forth in this part and in~~ *In no event shall the funding of the plan Cash Balance Benefit Program be a liability of the state or the General Fund, nor shall the General Fund be used to offset or fund the any liabilities of the plan attributed to the operation of the Cash Balance Benefit Program.*

SEC. 30. Section 26209 of the Education Code is amended to read:

~~26209. The board may authorize the transfer and disbursement of funds from the Cash Balance Teachers' Retirement Fund for the purpose of carrying into effect the plan Cash Balance Benefit Program upon the signature of its chairperson, vice chairperson, the chief executive officer, or any employee of the system designated by the chief executive officer.~~

1 *SEC. 31.* Section 26301 of the Education Code is
2 amended to read:

3 26301. (a) Employers shall report, on a form
4 prescribed by the system, contributions paid on behalf of
5 each participant in each pay period, along with all other
6 information required by the system, no later than 15
7 calendar days following the last day of the pay period in
8 which the salary was paid, and the report is delinquent
9 immediately thereafter.

10 (b) The board may assess a penalty against the
11 employer for a report submitted late or in an
12 unacceptable form.

13 ~~SEC. 5.~~

14 *SEC. 32* Section 26302 of the Education Code is
15 amended to read:

16 26302. (a) If more or less than the required
17 contributions are paid to the plan based on salary paid to
18 a participant, proper adjustment shall be made by the
19 employer within 60 days of discovery or of notification by
20 the system, and any contributions deducted in error from
21 the participant's salary shall be returned to the
22 participant by the employer within the same time period.

23 (b) If a report contains erroneous information and the
24 system, acting in good faith, makes a distribution from the
25 cash balance fund based on that information, the
26 employer who submitted the report shall reimburse the
27 fund in full for the amount of the erroneous
28 disbursement, plus interest on the amount of the
29 erroneous disbursement at the minimum interest rate
30 from the date of disbursement to the date of
31 reimbursement, immediately upon notification by the
32 system.

33 ~~SEC. 6.~~

34 *SEC. 33.* Section 26400 of the Education Code is
35 amended to read:

36 26400. (a) A person employed to perform creditable
37 service for less than 50 percent of the full-time equivalent
38 for the position shall become a participant on the later of
39 the first day on which creditable service is performed for
40 an employer that provides the plan or the effective date



1 of the employer's governing board's action to provide the
2 Cash Balance Plan, provided the person is not subject to
3 mandatory membership in the Defined Benefit Plan
4 except as provided in Section 26402.

5 (b) If the employer's governing board's action to
6 provide the Cash Balance Plan gives employees the right
7 to elect coverage under social security or an alternative
8 retirement plan offered by the employer in addition to
9 the Cash Balance Plan, the employee may elect within 60
10 calendar days of the later of the first day on which
11 creditable service is performed, the date of the
12 employer's governing board's action to provide the Cash
13 Balance Plan, or the effective date of the employer's
14 governing board's action to provide the Cash Balance
15 Plan to be covered by social security or to participate in
16 the alternative retirement plan in lieu of participating in
17 the Cash Balance Plan. Any election shall not preclude an
18 employee from participating in the Cash Balance Plan at
19 a later date so long as the Cash Balance Plan is provided
20 by the employer and the employee is eligible to
21 participate in the Cash Balance Plan.

22 (c) If subdivision (b) is applicable, the employer shall
23 inform employees pursuant to subdivision (c) of Section
24 26300 of their right to make an election and the election
25 shall be made on a form prescribed by the system and
26 filed with the employer. The election shall become
27 effective on the later of the first day on which creditable
28 service is performed or the effective date of the
29 employer's governing board's action to provide the plan.

30 (d) If the participant's basis of employment with an
31 employer that provides the Cash Balance Plan changes to
32 employment to perform creditable service for 50 percent
33 or more of the full-time equivalent for the position,
34 contributions to the Cash Balance Plan on behalf of the
35 participant shall no longer be made and creditable
36 service performed for that employer and all other
37 employers shall be subject to coverage by the Defined
38 Benefit Plan as of the first day of the pay period in which
39 the change in the participant's basis of employment
40 occurred, except as provided in Section 26402.

1 ~~SEC. 7.~~

2 *SEC. 34.* Section 26401 of the Education Code is
3 amended to read:

4 26401. (a) A member of the Defined Benefit Plan
5 who is employed to perform creditable service for less
6 than 50 percent of the full-time equivalent for the
7 position for an employer that provides the Cash Balance
8 Plan may elect to become a participant for creditable
9 service subject to coverage by the Cash Balance Plan for
10 that employer provided that the creditable service is not
11 performed for the same employer with whom the
12 member is also subject to mandatory membership in the
13 Defined Benefit Plan.

14 (b) The election shall be made on a form prescribed by
15 the system and shall be filed with the employer within 60
16 calendar days of the later of the first day of employment
17 with an employer that provides the Cash Balance Plan,
18 the date of the employer's governing board's action to
19 provide the Cash Balance Plan, or the effective date of
20 the employer's governing board's action to provide the
21 Cash Balance Plan.

22 (c) Employers shall make available to employees
23 specified in subdivision (a) information and forms
24 provided by the system for making an election regarding
25 participation, and shall maintain the written election by
26 the employee in employer files. The election shall
27 become effective on the first day of the month following
28 the month in which the election is made.

29 (d) If an election is made pursuant to subdivision (a)
30 and the participant's basis of employment with that
31 employer changes to employment to perform creditable
32 service for 50 percent or more of the full-time equivalent
33 for the position, contributions to the Cash Balance Plan
34 on behalf of the participant shall no longer be made and
35 creditable service performed for that employer and all
36 other employers shall be subject to coverage by the
37 Defined Benefit Plan as of the first day of the pay period
38 in which the change in the participant's basis of
39 employment occurred, except as provided in Section
40 26402.

~~SEC. 8.~~

SEC. 35. Section 26504 of the Education Code is amended to read:

26504. The employer may enter into a collective bargaining agreement to pay a different employer contribution rate and a different employee contribution rate, provided all of the following conditions are met:

(a) The sum of the employee contributions and employer contributions for each participant shall equal or exceed 8 percent of salary.

(b) The employee contribution rate may exceed the employer contribution rate but in no event shall the employer contribution rate be less than 4 percent.

(c) The employee contribution rate and employer contribution rate shall be the same for each participant employed by the employer.

(d) The employee contribution rate and employer contribution rate shall be in one-quarter percent increments.

(e) The employee contribution rate and employer contribution rate as determined under the collective bargaining agreement shall become effective on the first day of the plan year following notice to the system and remain in effect for at least one plan year. However, the employee contribution rate and the employer contribution rate as determined under the collective bargaining agreement may become effective as of the first day of the plan year in which notice is given if it is provided in the collective bargaining agreement and if a lump-sum contribution is made to the plan equal to the additional employee and employer contributions, if any, that would have been required if the contribution rates were in effect on the first day of the plan year. Interest shall be credited at the minimum interest rate with respect to the lump-sum contribution commencing with the first month the contribution is made.

(f) The employer has filed notice of the employee contribution rate and the employer contribution rate on a form prescribed by the system.

~~SEC. 9.~~

1 *SEC. 36.* Section 26507 of the Education Code is
2 amended to read:

3 26507. (a) The board may adjust the mandatory
4 employer contribution rate specified under Section 26503
5 for a fixed period of plan years when it has determined
6 based upon the recommendation of the actuary, that
7 increased contributions are required. The adjustment
8 shall not exceed one-fourth of one percent for any plan
9 year. The mandatory employer contribution rate as
10 adjusted shall not exceed 4.25 percent of salary in any plan
11 year for each participant employed by the employer,
12 except as provided in subdivision (b).

13 (b) The adjustment to the employer contribution rate
14 specified in subdivision (a) shall be applied to the
15 employer contribution rate specified in a collective
16 bargaining agreement pursuant to Section 26504 and in
17 effect on the first day of the plan year in which the
18 adjustment to the employer contribution rate takes
19 effect.

20 (c) The adjusted employer contribution rate shall
21 become effective no earlier than the first day of the plan
22 year immediately following adoption by the board.

23 ~~SEC. 40.~~

24 *SEC. 37.* Section 26807 of the Education Code is
25 amended to read:

26 26807. (a) Upon application for a retirement benefit,
27 the participant may elect to receive the retirement
28 benefit in the form of an annuity, provided the sum of the
29 employee account and employer account equals or
30 exceeds three thousand five hundred dollars (\$3,500).

31 (b) The participant may elect one of the following
32 annuity options:

33 (1) A single life annuity with a cash refund feature,
34 which is the actuarial equivalent of the lump sum payable
35 for the life of the participant with any balance remaining
36 upon the death of the participant payable in a lump sum
37 to the beneficiary.

38 (2) A single life annuity without a cash refund feature,
39 which is the actuarial equivalent of the lump sum payable
40 for the life of the participant.

1 (3) A 100-percent joint and survivor annuity, which is
2 the actuarial equivalent of the lump sum payable for the
3 combined lives of the participant and the beneficiary,
4 with the monthly amount payable to the participant
5 continuing to the surviving beneficiary upon the death of
6 the participant. However, if the option beneficiary
7 predeceases the participant, the annuity without
8 modification for the option shall be payable to the
9 participant upon notification to the board and shall
10 commence to accrue to the participant as of the day
11 following the date of death of the option beneficiary.
12 Notification to the board shall include proof of death of
13 the option beneficiary.

14 (4) A 50-percent joint and survivor annuity, which is
15 the actuarial equivalent of the lump sum payable for the
16 combined lives of the participant and the beneficiary,
17 with one-half of the monthly amount payable to the
18 participant continuing to the surviving beneficiary upon
19 the death of the participant. However, if the option
20 beneficiary predeceases the participant, the annuity
21 without modification for the option shall be payable to the
22 participant upon notification to the board and shall
23 commence to accrue to the participant as of the day
24 following the date of death of the option beneficiary.
25 Notification to the board shall include proof of death of
26 the option beneficiary.

27 (5) A period certain annuity, which is the lump sum
28 payable over a specified number of years, from a
29 minimum of three years to a maximum of 10 years but in
30 any event not to exceed the life expectancy of the
31 participant or the life expectancy of the participant and
32 the participant's option beneficiary, until there is no
33 balance remaining in the participant's employee account
34 and employer account.

35 ~~SEC. 11.~~

36 *SEC. 38.* Section 26906 of the Education Code is
37 amended to read:

38 26906. (a) Upon application for a disability benefit,
39 the participant may elect to receive the disability benefit
40 in the form of an annuity provided the sum of the

1 employee account and employer account equals or
2 exceeds three thousand five hundred dollars (\$3,500).

3 (b) The participant may elect one of the following
4 options:

5 (1) A single life annuity with a cash refund feature,
6 which is the actuarial equivalent of the lump sum payable
7 for the life of the participant with any balance remaining
8 upon the death of the participant payable in a lump sum
9 to the beneficiary.

10 (2) A single life annuity without a cash refund feature,
11 which is the actuarial equivalent of the lump sum payable
12 for the life of the participant.

13 (3) A 100-percent joint and survivor annuity, which is
14 the actuarial equivalent of the lump sum payable for the
15 combined lives of the participant and the beneficiary
16 designated under this subdivision, with the monthly
17 amount payable to the participant continuing to the
18 surviving beneficiary upon the death of the participant.
19 However, if the option beneficiary predeceases the
20 participant, the annuity without modification for the
21 option shall be payable to the participant upon
22 notification to the board and shall commence to accrue
23 to the participant as of the day following the date of death
24 of the option beneficiary. Notification to the board shall
25 include proof of death of the option beneficiary.

26 (4) A 50-percent joint and survivor annuity, which is
27 the actuarial equivalent of the lump sum payable for the
28 combined lives of the participant and the beneficiary
29 designated under this subdivision, with one-half of the
30 monthly amount payable to the participant continuing to
31 the surviving beneficiary upon the death of the
32 participant. However, if the option beneficiary
33 predeceases the participant, the annuity without
34 modification for the option shall be payable to the
35 participant upon notification to the board and shall
36 commence to accrue to the participant as of the day
37 following the date of death of the option beneficiary.
38 Notification to the board shall include proof of death of
39 the option beneficiary.



(5) A period certain annuity, which is the lump sum payable over a specified number of years, from a minimum of three years to a maximum of 10 years but in any event not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary, until there is no balance remaining in the participant's employee account and employer account.

~~SEC. 12.~~

SEC. 39. Section 27411 of the Education Code is amended to read:

27411. The nonparticipant spouse who is awarded a separate nominal account shall have the right to an annuity pursuant to paragraphs (1), (2), or (5) of subdivision (b) of Section 26807.

(a) The nonparticipant spouse shall be eligible for an annuity if the following conditions are satisfied:

(1) The nonparticipant spouse has at least three thousand five hundred dollars (\$3,500) in his or her separate nominal account.

(2) The nonparticipant spouse has attained the age of 55 years or more.

(b) An annuity of a nonparticipant spouse shall become effective upon any date designated by the nonparticipant spouse, provided:

(1) The requirements of subdivision (a) are satisfied.

(2) The nonparticipant spouse has filed an application for an annuity on a form provided by the system, which is executed no earlier than 90 days before the effective date of the annuity.

~~SEC. 13.~~

SEC. 40. Section 28100 of the Education Code is amended to read:

28100. (a) The employer may discontinue providing the Cash Balance Plan at anytime in accordance with the terms and conditions of the employer's governing board's formal action to provide the plan.

(b) The employer shall notify the system of the decision to discontinue the plan no less than 90 calendar days prior to the effective date of discontinuance. Such

1 notice shall be submitted on a form prescribed by the
2 system.

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